

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0827/P1dn
RJM:wlj&jlg:jf

February 12, 1999

1. ***Self-help repossession and remedy.*** Under s. 425.206 (3), if a creditor improperly repossesses property the customer may retain the goods, services or money received pursuant to the underlying transaction and recover anything paid to the creditor under the transaction. Also, s. 425.208 (1) allows a customer to redeem repossessed property within 15 days after repossession. If you intend to eliminate this right of redemption or if the remedy currently provided is otherwise not what you intended, please contact me and I will redraft the bill.

2. ***Prepayment of certain loans.*** In order to avoid impairment of contracts issues, this bill does not change the law with regard to existing loans. However, under this bill, creditors must use the actuarial method currently contained in s. 422.209 (2) (b) 1. or 2. to calculate the required interest rebate on any loan made after the effective date of the bill. Please review the two versions of the actuarial method contained in s. 422.209 (2) (b) to ensure that both are consistent with your intent.

This bill would not apply to the early termination of a motor vehicle lease under s. 429.207. In addition, s. 424.205 (4) would allow the commissioner of insurance to promulgate a rule that varies from this bill, relating to prepayment of a consumer credit transaction by the proceeds of consumer credit insurance. Furthermore, this bill would not affect the prepayment of a premium finance agreement under s. 138.12 (9), if the premium finance company is not also a licensed lender under s. 138.09. Please review these statutes and contact me if you desire any changes.

This bill also recreates s. 138.09 (7) (gm) in order to remove obsolete material and make the statute more readable. Section 138.09 (7) (gm) in the bill is substantively the same as the existing s. 138.09 (7) (gm), except for eliminating the rule of 78 for all new loans and deleting the current s. 138.09 (7) (gm) 1. The existing s. 138.09 (7) (gm) 1. is obsolete because it governs loans entered into on or after November 1, 1981 and before November 1, 1984, that have a term of less than 49 months. Please let me know if you do not approve of recreating s. 138.09 (7) (gm).

Section 138.09 (3) (e) 1. a. is ambiguous and may be in conflict with the dictates of s. 138.09 (7) because it only subjects certain loans having terms of 49 months or more to s. 138.09 (7) (gm). Please let me know if you desire an amendment to make all loans made under s. 138.09 (3) (e) 1. subject to s. 138.09 (7) (gm).

After you have reviewed the above issues, please contact me with any questions or suggested changes. I will then redraft the bill in introducible format.

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